

AMENDED IN ASSEMBLY JUNE 23, 2003

AMENDED IN ASSEMBLY MAY 5, 2003

AMENDED IN ASSEMBLY APRIL 21, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

## Assembly Constitutional Amendment

No. 14

**Introduced by Assembly Member Steinberg  
(Coauthors: Assembly Members Leno and Lieber)**

March 24, 2003

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Assembly Constitutional Amendment No. 14—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by adding Section 16 to Article XI thereof, by amending Section 4 of Article XIII A thereof, *and* by amending Section 2 of Article XIII C thereof, ~~and by amending Section 3 of Article XIII D thereof, relating to local development.~~

### LEGISLATIVE COUNSEL'S DIGEST

ACA 14, as amended, Steinberg. Local government: ~~special transactions and use~~ taxes: local development.

The California Constitution conditions the imposition of a special tax by a city, county, special district, or local governmental entity, other than certain school entities, upon the approval of  $\frac{2}{3}$  of the voters of the city, county, or special district voting on that tax in an election.

This measure would ~~authorize~~ *condition the imposition by* a local government, ~~with the approval of 55% of its voters voting on the proposition in an election, to impose a special tax that it is otherwise authorized by law to impose, of an additional transactions and use tax upon the approval of 55% of its voters voting on the proposition in an~~

*election*, if the tax is imposed exclusively to fund projects for local infrastructure, as provided. This measure would also make conforming or technical, nonsubstantive changes to related provisions.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: no. State-mandated local program: no.

1     *Resolved by the Assembly, the Senate concurring, That the*  
2     Legislature of the State of California at its 2003–04 Regular  
3     Session commencing on the second day of December 2002,  
4     two-thirds of the membership of each house concurring, hereby  
5     proposes to the people of the State of California that the  
6     Constitution of the State be amended as follows:

7     First—That Section 16 is added to Article XI thereof, to read:  
8     SEC. 16. (a) (1) A local government ~~may impose, may,~~  
9     with the approval of 55 percent of the voters voting on the ~~issue~~  
10    ~~proposition in an election, any special tax that it is otherwise~~  
11    ~~authorized by law to impose, election, impose a transactions and~~  
12    ~~use tax within its jurisdiction pursuant to the Transactions and Use~~  
13    ~~Tax Law (Part 1.6 (commencing with Section 7251) of Division 2~~  
14    ~~of the Revenue and Taxation Code), or any successor to that law,~~  
15    if that tax is imposed exclusively for the purpose of funding local  
16    infrastructure in accordance with subdivisions (b) and (c).

17    (2) *Notwithstanding any other provision of law, a tax imposed*  
18    *under the authority of paragraph (1) shall be in addition to any*  
19    *state or local sales and use tax or any other transactions and use*  
20    *tax that is otherwise authorized by law to be imposed within the*  
21    *jurisdiction of the imposing local government.*

22    (b) (1) A local government may submit a ~~special transactions~~  
23    ~~and use tax~~ to its voters pursuant to subdivision (a) only if both of  
24    the following have occurred:

25    (A) The local government proposing the tax, in conjunction  
26    with a local infrastructure citizen’s advisory committee appointed  
27    by the legislative body of that local government, has developed an  
28    infrastructure plan.

29    (B) The legislative body of the local government proposing the  
30    tax has approved the infrastructure plan.

31    (2) The proposed infrastructure expenditure plan shall include  
32    all of the following provisions:



1 (A) A designation of an agency of the local government  
2 proposing the tax that will implement, administer, and authorize  
3 expenditures under the infrastructure expenditure plan.

4 (B) A requirement that the local infrastructure citizen's  
5 advisory committee be vested with the authority to review the  
6 administering local government agency's compliance with the  
7 infrastructure expenditure plan.

8 (C) A requirement that any proposed amendment to the  
9 infrastructure expenditure plan be approved in accordance with  
10 either or both of the following:

11 (i) A two-thirds vote of the membership of the governing board  
12 of the local government imposing the tax.

13 (ii) A majority of the qualified voters of the local government  
14 imposing the tax voting on the amendment in an election.

15 (c) (1) Revenues, net of refunds, derived from a tax imposed  
16 in accordance with subdivision (a) shall be exclusively allocated  
17 for expenditure, as authorized by paragraph (2), for the following  
18 local infrastructure purposes:

19 (A) General infrastructure.

20 (B) Conservation of land dedicated to agricultural use,  
21 recreational use, or open-space use, and the maintenance and  
22 creation of neighborhood parks.

23 (C) Construction, acquisition, and rehabilitation of emergency  
24 shelters, and the provision of housing, including rental housing,  
25 that will be affordable to persons of lower income households or  
26 very low income households for not less than 55 years.

27 (D) Neighborhood enhancement activities that include those  
28 activities described in paragraph (35) of subsection (a) of Section  
29 101 of Title 23 of the United States Code, as that section read on  
30 January 1, 2003, or any successor to that provision.

31 (2) The revenues derived from any tax imposed pursuant to  
32 subdivision (a) shall be allocated for expenditure in compliance  
33 with the following percentages:

34 (A) ~~(i) Not more than 35~~ *At least 20* percent for the purposes  
35 described in subparagraph (A) of paragraph (1).

36 ~~(ii) Not more than 5 percent of the allocations authorized in~~  
37 ~~clause (i) may be used for the comprehensive revision of a local~~  
38 ~~government's general plan.~~

39 (B) (i) At least 20 percent for the purposes described in  
40 subparagraph (B) of paragraph (1).

(ii) Revenues allocated pursuant to clause (i) may not be expended on activities or projects that are eligible for project-specific mitigation procedures or measures.

(C) (i) At least 20 percent for the purposes described in subparagraph (C) of paragraph (1).

(ii) Not more than 30 percent of the allocations authorized in clause (i) may be used to provide housing that is affordable to persons of moderate income households.

(D) At least 25 20 percent for the purposes described in subparagraph (D) of paragraph (1).

(d) For purposes of this section:

(1) “Agricultural use” has the same meaning as that term is defined in subdivision (b) of Section 51201 of the Government Code, or any successor to that subdivision.

(2) “Local government” means any county, city, city and county, including a charter city or county, any special district, or any other local or regional governmental entity.

(3) “Lower income households” has the same meaning as that term is defined in subdivision (a) of Section 50079.5 of the Health and Safety Code, or any successor to that subdivision.

(4) “Moderate income households” has the same meaning as that term is described in subdivision (b) of Section 50093 of the Health and Safety Code, or any successor to that subdivision.

(5) “Open-space use” has the same meaning as that term is defined in subdivision (o) of Section 51201 of the Government Code, or any successor to that subdivision.

(6) “Recreational use” has the same meaning as that term is defined in subdivision (n) of Section 51201 of the Government Code, or any successor to that subdivision.

~~(7) “Special tax” does not include an ad valorem tax on real property or a transactions tax or sales tax on the sale of real property.~~

~~(8)~~

(7) “Very low income households” has the same meaning as that term is defined in Section 50105 of the Health and Safety Code, or any successor to that subdivision.

Second—That Section 4 of Article XIII A thereof is amended to read:

Section 4. Except as otherwise provided by Section 16 of Article XI, a city, county, or special district, by a two-thirds vote

1 of its voters voting on the proposition in an election, may impose  
2 a special tax within that city, county, or special district, except an  
3 ad valorem tax on real property or a transactions tax or sales tax  
4 on the sale of real property within that city, county, or special  
5 district.

6 Third—That Section 2 of Article XIII C thereof is amended to  
7 read:

8 SEC. 2. Notwithstanding any other provision of this  
9 Constitution:

10 (a) A tax imposed by any local government is either a general  
11 tax or a special tax. A special purpose district or agency, including  
12 a school district, has no authority to levy a general tax.

13 (b) A local government may not impose, extend, or increase  
14 any general tax unless and until that tax is submitted to the  
15 electorate and approved by a majority vote of its voters voting on  
16 the proposition in an election. A general tax is not deemed to have  
17 been increased if it is imposed at a rate not higher than the  
18 maximum rate so approved. The election required by this  
19 subdivision shall be consolidated with a regularly scheduled  
20 general election for members of the governing body of the local  
21 government, except in cases of emergency declared by a  
22 unanimous vote of the governing body.

23 (c) Any general tax imposed, extended, or increased, without  
24 voter approval, by any local government on or after January 1,  
25 1995, and prior to the effective date of this article, may continue  
26 to be imposed only if that general tax is approved by a majority  
27 vote of the voters voting in an election on the issue of the  
28 imposition, which election is held no later than November 6, 1998,  
29 and in compliance with subdivision (b).

30 (d) Except as otherwise provided by Section 16 of Article XI,  
31 a local government may not impose, extend, or increase any  
32 special tax unless and until that tax is submitted to the electorate  
33 and approved by a two-thirds vote of its voters voting on the  
34 proposition in an election. A special tax is not deemed to have been  
35 increased if it is imposed at a rate not higher than the maximum rate  
36 so approved.

37 ~~Fourth—That Section 3 of Article XIII D thereof is amended to~~  
38 ~~read:~~

1     ~~SEC. 3. (a) An agency may not assess a tax, assessment, fee,~~  
2     ~~or charge upon any parcel of property or upon any person as an~~  
3     ~~incident of property ownership except:~~  
4     ~~(1) The ad valorem property tax imposed pursuant to Article~~  
5     ~~XIII and Article XIII A.~~  
6     ~~(2) Any special tax receiving, as applicable, a two-thirds vote~~  
7     ~~pursuant to Section 4 of Article XIII A or Section 2 of Article~~  
8     ~~XIII C, a 55-percent vote pursuant to subdivision (c) of Section 1~~  
9     ~~of Article XIII A, or a 55-percent vote pursuant to Section 16 of~~  
10    ~~Article XI.~~  
11    ~~(3) Assessments as provided by this article.~~  
12    ~~(4) Fees or charges for property-related services as provided by~~  
13    ~~this article.~~  
14    ~~(b) For purposes of this article, fees for the provision of~~  
15    ~~electrical or gas service are not deemed charges or fees imposed~~  
16    ~~as an incident of property ownership.~~

